

## REMARKS

These remarks are being filed in response to the final Office Action dated January 25, 2008. In view of these remarks this application should be allowed and the case passed to issue.

Claims 12-20 are pending in this application. Claims 16-18 and 20 were withdrawn from consideration pursuant to a restriction requirement. Claims 12-15, 19, 21-14, and 28 were rejected. Claims 1-11 and 21-29 were previously canceled.

### *Restriction*

Upon allowance of generic claim 12, Applicant respectfully requests consideration and allowance of all the claims (16-18 and 20) depending from the allowed generic claim, in accordance with 37 C.F.R. § 1.141.

### *Claim Rejections Under 35 U.S.C. § 102*

Claims 21-24 and 28 were rejected under 35 U.S.C. § 102(b) as being anticipated by Kawasumi et al. (EP 1198020).

This rejection is moot, as claims 21-24 and 28 **were canceled** in the Amendment filed December 21, 2007.

### *Claim Rejections Under 35 U.S.C. § 103*

Claims 12-15 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kawasumi et al. (U.S. Pat. No. 6,641,944) in view of Woods (US 6,033,793). This rejection is traversed, and reconsideration and withdrawal thereof respectfully requested.

A certified English translation of the Japanese priority document JP 2002-106235 filed April 9, 2002, was attached to the response filed December 21, 2007. The Japanese filing date of the JP 2002-106235, April 9, 2002, precedes both the dates of Kawasumi et al.'s patent

publication, November 4, 2003, and the published application (US 2002/0045078 A1), April 18, 2002. Thus, Kawasumi et al. is not available as prior art under 35 U.S.C. § 102(a).

In addition, Kawasumi et al. is further disqualified as prior art under 35 U.S.C. § 103(c). The instant application and Kawasumi et al. were, at the time the instant invention was made, owned by the same person (Nissan Motor Co., Ltd.) or subject to an obligation of assignment to the same person. Ergo, by virtue of 35 U.S.C. § 103(c), Kawasumi et al. may not be relied upon to support a rejection under 35 U.S.C. § 103. (*See* MPEP § 706.02(I)(2)(II)).

In the Response to Arguments section, the Examiner asserted that Kawasumi et al. has “an effective priority dated of October 12, 2000.” It is not clear why the date of October 12, 2000 has any relevance to the instant rejection. The foreign priority date of an asserted prior art reference can not be relied on by the Office when making a prior art rejection. If the Examiner believes that the foreign priority date of an asserted prior art reference can be relied on, the Examiner is respectfully requested to explain which section of 35 U.S.C. § 102 provides the basis. Whether or not, the foreign priority date of Kawasumi et al. is relied on by the Examiner, however, is moot, as Kawasumi et al. has been disqualified as a prior art reference, as explained above.

In light of the above remarks, this application should be allowed and the case passed to issue. If there are any questions regarding these remarks or the application in general, a telephone call to the undersigned would be appreciated to expedite prosecution of the application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

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including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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